



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0080]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Lease and Interchange of Vehicles

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. This ICR will enable FMCSA to document the burden associated with the for-hire truck leasing regulations and passenger carrier regulations. These regulations require certain for-hire property carriers and certain for-hire and private passenger carriers to have a formal lease when leasing equipment from other motor carriers. FMCSA requests approval to renew an ICR titled, “Lease and Interchange of Vehicles.”

DATES: Comments on this notice must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by Federal Docket Management System Docket Number FMCSA-2022-0080 using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: (202) 493-2251.

- Mail: Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC, 20590-0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments see the Public Participation heading below. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy: In accordance with 5 CFR 1320.8(d)(1), DOT solicits comments from the public to better inform its collections of information approval process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Stacy Ropp, Compliance Division,
DOT, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC
20590-0001; (609) 661-2062; Stacy.Ropp@dot.gov.

SUPPLEMENTARY INFORMATION:

Background:

Property transportation. Under 49 U.S.C. 14102(a), The Secretary of Transportation (Secretary) “may require a motor carrier providing for-hire transportation that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them;
and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.”

The Secretary has delegated authority pertaining to leased motor vehicles to FMCSA pursuant to 49 CFR 1.87(a)(6). The Agency's regulations governing leased motor vehicles are at 49 CFR part 376.

The regulations were adopted to ensure that small trucking companies were protected when they agreed to lease their equipment and drivers to larger for-hire carriers. They also ensure the government and members of the public can determine who is responsible for a property-carrying commercial motor vehicle. Prior to adoption of the

regulations, some equipment was leased without written agreements, leading to disputes over which party to the lease was responsible for charges and actions and, at times, who was legally responsible for the vehicle.

The regulations specify what must be covered in the lease, but leave open how many responsibilities must be divided. The parties to the lease determine numerous details between themselves.

Part 376 applies only to certain motor carriers in interstate commerce and only to certain leasing situations based on exemptions set forth in § 376.11, which cross references other provisions in part 376. Section 376.11 provides that an authorized carrier (a person or persons authorized to engage in the transportation of property as a motor carrier under the provisions of 49 U.S.C. 13901 and 13902) may perform authorized transportation using equipment it does not own only when the following conditions are met:

(1) There shall be a written lease granting the use of the equipment and meeting the requirements contained in § 376.12;

(2) Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given; and

(3) The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service.

Passenger transportation. FMCSA can regulate the lease and interchange of passenger-carrying commercial motor vehicles based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Safety Act of 1984, as amended. FMCSA's regulations about the lease and interchange of passenger-carrying commercial motor vehicles in subpart G of 49 CFR part 390 help ensure that passenger carriers cannot evade FMCSA oversight and enforcement by entering into lease agreements to operate under the authority of another carrier that exercises no control over these operations. Motor carriers that (1)

operate passenger-carrying commercial motor vehicles, (2) have active operating authority registration with FMCSA to transport passengers, and (3) engage in the lease or interchange of passenger-carrying commercial motor vehicles with other motor carriers that have active operating authority registration with FMCSA to transport passengers, are not subject to the regulations in subpart G of 49 CFR part 390 and the recordkeeping requirements therein. Such regulations and requirements also do not apply to financial leases (such as a closed-end lease, hire purchase, lease purchase, purchase agreement, installment plan, demonstration or loaner vehicle, etc.) between a motor carrier and a bank or similar financial organization or a manufacturer or dealer of passenger-carrying commercial motor vehicles.

Section 390.403(b) specifies the four required items of information that any lease or interchange record document for passenger-carrying commercial motor vehicles is required to contain. These are (1) vehicle identification information; (2) information about and signatures of the involved motor carriers of passengers [the lessor and the lessee]; (3) specific duration of the lease or interchange agreement; and (4) a clear statement about exclusive possession and responsibilities. Section 390.403(c) requires a copy of the lease or interchange agreement be on the passenger-carrying commercial motor vehicle during the period of the lease or interchange agreement. Both the lessee and lessor must retain a copy of the lease or interchange agreement for one year after the expiration date.

These property carrier and passenger carrier provisions account for the burden in this information collection.

The program change increase of 75,968 estimated annual burden hours (212,256 proposed estimated annual burden hours - 136,288 currently approved estimated annual burden hours) is due to the availability of new or improved data, the use of enhanced analysis or estimation methodologies, and/or the correction of arithmetic or other errors

made previously when calculating the burden for the currently approved information collection. Previous estimates were based on 2017 data. Current passenger carrier-related estimates are based on the October 29, 2021, Licensing and Insurance, Motor Carrier Management Information System, and Safety Measurement System snapshots. Current property carrier related estimates are based on the November 26, 2021, Licensing and Insurance, Motor Carrier Management Information System, and Safety Measurement System snapshots. The data pulled for the current ICR shows an increase in the overall number of affected property carriers and a decrease in the overall number of affected passenger carriers from the data used in the previous ICR. The increase in the number of affected property carriers was greater than the decrease in the overall number of affected passenger carriers which resulted in an increase in the overall burden hours associated with this ICR.

Title: Lease and Interchange of Vehicles.

OMB Control Number: 2126-0056.

Type of Request: Renewal of currently approved ICR.

Respondents: Motor carriers authorized by the Secretary to transport property and passengers that use leased equipment.

Estimated Number of Respondents: 48,046 [45,536 property carriers (lessees and lessors) + 2,230 interstate authorized for-hire passenger carriers (lessees and lessors) + 124 interstate exempt for-hire passenger carriers (lessees and lessors) + 156 interstate private motor carriers of passengers (lessees and lessors)].

Estimated Time per Response: Varies from 5 to 30 minutes.

Expiration Date: October 31, 2022.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 212,256 hours [45,536 hours for master lease (creation of master leases by lessees and lessors that are property carriers) + 73,067 hours

for standard statement (creation of a statement or copy of the lease to be carried in each leased truck tractor) + 80,320 hours for one-time lease negotiations by lessees and lessors that are passenger carriers + 13,333 hours for lease documentation by lessees and lessors that are passenger carriers + zero or de minimis hours for lease copying by passenger carriers].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator,

Office of Research and Registration.

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